

FINAL BILL REPORT

SHB 2590

C 148 L 96

Synopsis as Enacted

Brief Description: Implementing excise tax changes needed as a result of Jefferson Lines v. Oklahoma.

Sponsors: By House Committee on Finance (originally sponsored by Representatives Van Luven, Dickerson and B. Thomas; by request of Department of Revenue).

House Committee on Finance
Senate Committee on Ways & Means

Background: *Sales taxation of guided tours and guided charters.* The sales tax is imposed on retail sales of most items of tangible personal property and some services. The state tax rate is 6.5 percent and is applied to the selling price of the article or service. In addition, local sales taxes apply. The total rate is between 7 percent and 8.2 percent, depending on the location.

Wholesales of tangible personal property are exempt from sales tax. There is no similar exemption for wholesales of services, except for telephone services.

In 1993, the Legislature extended state and local retail sales taxes to sales of certain services, including guided tours and guided charters. Guided tours and guided charters often involve multi-state transactions. Part of the tour or charter may take place in Washington and part in another state. Tickets for a trip in Washington may be sold in another state. Tickets for trips in other states may be sold in Washington. The Department of Revenue drafted a proposed rule that addressed multi-state issues for guided tours and guided charters. Under this proposed rule

- (a) If the guided tour or guided charter takes place entirely in this state, the total price of the guided tour or charter is subject to Washington's retail sales tax.
- (b) If the guided tour or guided charter takes place both inside and outside of Washington, the percentage of the tour that takes place in this state is subject to Washington's retail sales tax if the percentage is more than 25 percent. Percentage of tour relates to the time spent on the tour.

The treatment of guided tours and guided charters under the Department of Revenue's proposed rule differed from the usual treatment of sales of goods. Sales of goods are generally treated as occurring solely in the state where the goods are delivered. Sales

tax applies to the full price, if the goods are delivered in the state. Sales tax does not apply at all if the goods are delivered outside the state.

On April 3, 1995, the United States Supreme Court, in *Oklahoma Tax Commission v. Jefferson Lines*, held that sales of bus tickets should be taxed, based on the full price, in the state where agreement, payment, and delivery of some of the services occurs. The Department of Revenue subsequently withdrew its proposed rule.

B&O taxation of travel agents and tour operators. Washington's major business tax is the business and occupation (B&O) tax. This tax is imposed on gross income from business activities conducted within the state. There are several different B&O tax rates.

Travel agents are taxed under a special B&O tax rate of 0.287 percent. Tour operators are taxed under the service or other business rate of 1.829 percent.

Summary: Guided tours and guided charters are removed from the definition of retail sale and are replaced with day trips for sightseeing purposes. Wholesales of day trips and other amusement and recreation services, such as golf, pool, billiards, skating, bowling, and ski lifts, are exempted from sales tax.

The special B&O tax rate of 0.287 percent for travel agents is applied to tour operators.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	80	18	(House concurred)

Effective: April 1, 1996